



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-3503 FAX (603) 271-5171



July 3, 2003

LETTER OF DEFICIENCY #WSEB 03-045
Certified Mail# 7099 3400 0003 0691 1260

William Shaheen
Shaheen & Gordon, PA
140 Washington Street
Dover, NH 03820

Subject: Madbury - Public Water System: Kids N More Daycare (EPA #1458010)

Dear Mr. Shaheen:

The records of the Department of Environmental Services (DES) show that the Kids N More Daycare water system is classified as a public water system (PWS), as defined by RSA 485:1-a. A PWS is defined as any water system supplying 15 or more services, or 25 or more people for 60 or more days a year. As such, the PWS owner is required to submit chemical samples according to the system's established sampling schedule to the State Laboratory or a State-certified laboratory in compliance with NH Administrative Rule Env-Ws 326.

DES records show that the PWS has **exceeded the maximum contaminant level (MCL) for arsenic** of 0.050 mg/L, as defined in Env-Ws 316.01. The second quarter (Q2)-2003 sample result for the referenced system was 0.058 mg/L. A confirmation sample was collected on June 12, 2003, and arsenic was determined to be present at a level of 0.066 mg/L. Pursuant to Env-Ws 326.10(a), the initial and confirmation sample results were averaged to determine compliance with the MCL. The computed arsenic average was 0.062, and, as a result, an arsenic MCL violation has occurred for Q2-2003.

[Please note that the arsenic MCL is being lowered from the current level of 0.05 mg/L to 0.01 mg/L as of January 22, 2004. Existing water systems that are not in compliance with the lowered MCL value by January 22, 2006, will be deemed in violation of the MCL standard and subject to additional enforcement actions.]

DES believes the MCL violation can be corrected and future violations prevented by taking the following actions:

Immediately begin providing appropriate alternate (*i.e.* bottled) water at areas accessible to consumers for as long as quarterly sampling results indicate an exceedance of the arsenic MCL value. If bottled water is used, the source must be an approved source, monitored in accordance with Env-Ws 389; and

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2. **By July 18, 2003**, send written confirmation to DES that alternate water is being provided to consumers; and
3. **By July 18, 2003**, contact Bernard Lucey, P.E., of DES' Water Supply Engineering Bureau, at (603) 271-2952 to discuss your options involving compliance with the arsenic MCL; and
4. **By July 31, 2003**, provide public notice to all consumers following the guidelines in the enclosed public notice handout. Provide proof of public notice to this office within 10 days of issuing the public notice. Continue providing public notice **each calendar quarter** for as long as the violation continues; and
5. **By July 31, 2003**, retain the services of a qualified consultant to address the water quality violation and notify DES, in writing, of the name of the consultant hired. The consultant should review all existing water quality data prior to making recommendations for correcting the MCL violation; and
6. **By August 29, 2003**, submit to DES the consultant's report, which shall contain the consultant's recommendations, along with an implementation schedule to correct the MCL violation. A maintenance schedule must be included if treatment is proposed. DES must approve the consultant's report/recommendations, the maintenance schedule, and the proposed implementation schedule prior to any work being done on the system; and
7. By the DES-approved correction date, correct the violation or install treatment as approved by DES. Notify DES in writing of the correction(s) taken; and
8. Sample in accordance with your new Master Sampling Schedule, which is enclosed. **(Please note that you must now submit quarterly arsenic samples.)**

In the event compliance is not achieved within this period, DES may take further enforcement action, including issuing an order requiring the deficiencies to be corrected, initiating an administrative fine proceeding and/or referring the matter to the NH Department of Justice for imposition of appropriate penalties.

The written correspondence as requested above should be addressed as follows:

Alan Leach
Department of Environmental Services
Water Supply Engineering Bureau
6 Hazen Drive, PO Box 95
Concord, NH 03302-0095

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Please contact Selina J. Makofsky by phone at (603) 271-4109 or email at smakofsky@des.state.nh.us or Alan Leach by phone at (603) 271-2854 or email at aleach@des.state.nh.us should you have any questions about the requirements listed in this letter.

Sincerely,

COPY

Anthony P. Giunta, P.G., Administrator
Water Supply Engineering Bureau

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enc. Master Sampling Schedule
Arsenic Public Notice Template MCL Violation
Arsenic Fact Sheet

cc: Gretchen Rule, DES Legal Unit (w/o enc.)
Robert Wilson, MD, Town of Madbury Health Officer (w/o enc.)
Dave Gordon, DHHS Health Risk Assessment Bureau (w/o enc.)
Child Care Licensing Bureau, DHHS (w/o enc.)
Joanne Wheeler, Primary Contact
Henry DeBoer, Primary Operator
EPA, Region 1 (w/o enc.)